

Ulster Custom Bill.

MEMORANDUM.

The Ulster custom is now frequently resorted to in case of sales of tenancies where the tenant desires to prevent the landlord exercising his right of pre-emption at a value ascertained by the Land Commission. The tenant is legally entitled to do this where the custom obtains (see section 1, subsection 12, of the Act of 1881). An Ulster custom sale can only be carried out by the acceptance of the purchaser by the landlord as his tenant. Where in breach of the custom the landlord wrongfully refuses to accept the purchaser, the vendor has no remedy but to give up his holding and to claim compensation under section 16 of the Land Act of 1870, or to persuade the purchaser to face litigation on the next application for a fair rent perhaps years after the purchase money has been paid. The former remedy was given by Parliament in 1870 before the tenant had the right of fixity of tenure conferred on him in 1881, and to avail himself of it now he must surrender this valuable right. The remedy by way of compensation has therefore become obsolete.

The present Bill does not seek to alter in any way mutual rights and obligations of the custom, but to give the tenant, in those cases where he is entitled to it, a further means of enforcing his right of sale under the custom, without being compelled to surrender his fixity of tenure.

The procedure adopted is analogous to that now existing for the enforcement of legal obligations by specific performance in the Irish county courts.

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TO

Provide a further remedy for enforcing the Ulster Tenant Right Custom in cases of sale thereunder. A.D. 1904.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1. When the tenant has agreed for the sale of a holding to which the Ulster tenant right custom within the meaning of section one of the Landlord and Tenant (Ireland) Act of 1870 applies, and such sale purports to be made under the custom, but the landlord in breach thereof refuses to accept the purchaser as tenant, any party interested in such agreement may apply to the county court judge having jurisdiction in equity in the division of the county in which such holding or any part thereof is situate for an order declaring the purchaser, notwithstanding such refusal, to be entitled to all the interest of the tenant in such holding.
- 10 On the hearing of such application the county court judge shall have jurisdiction to make a decree in the terms thereof or such other order in the premises, including costs, as the case may require, and shall have and exercise all the powers now exercised in respect of suits in the county court relating to the specific performance
- 15 of contracts, subject to the right of appeal therefrom in like manner as may from time to time be provided in the case of other decrees or orders made in the county court under its jurisdiction in equity.

Provision as to sale of holding where landlord refuses to accept a purchaser as tenant.

- 25 2. The relief given by this Act shall be in addition to, and not in substitution for, any remedy for breach of such custom now subsisting, provided that damages under this Act shall not be awarded as well as compensation under the Landlord and Tenant (Ireland) Act, 1870, in respect of the same breach of the custom.

Relief under this Act to be in addition to existing remedy.

[Bill 55.]

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A.D. 1901.

Forms and
rules.

3. Forms and rules for the purposes of this Act may be prescribed and made by the authority and subject to the conditions by which they are respectively prescribed and made under the County Officers and Courts (Ireland) Act, 1877, and the County Court Appeals (Ireland) Act, 1889, as amended by any other Act. 5

Explanation
of terms.

4. The terms and expressions used in this Act shall have the same meanings respectively as they have in the Land Law (Ireland) Act, 1881, as amended by any other Act.

Application
of Act.

5. This Act shall apply to Ireland only.

Short title.

6. This Act may be cited as the Ulster Custom Enforcement 10
Act, 1901.

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To provide a further remedy for enforcing the Uster Tenant Right Custom in cases of sale thereunder.

*(Prepared and brought in by
Mr. William Moore, Mr. Lentholt, and
Mr. Airdrie.)*

*(Introduced by The House of Commons, to be Printed,
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[Bill 56.]